



Senate

General Assembly

File No. 583

January Session, 2001

Substitute Senate Bill No. 1420

Senate, May 3, 2001

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DISPOSITION OF REMAINS OF DECEASED PERSONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 45a-318 of the general statutes is repealed and the following
2 is substituted in lieu thereof:

3 (a) Any person eighteen years of age or older may execute in
4 advance of such person's death a cremation authorization on a form
5 authorized by the Department of Public Health for the incineration or
6 cremation of such person's body upon the death of such person. Any
7 such document shall be signed and dated by the maker, and certified
8 in writing by two witnesses that the maker was of sound mind and
9 capacity at the time of execution of the authorization.

10 ~~[(a)]~~ (b) The custody and control of the remains of deceased
11 residents of this state shall belong to the surviving spouse of the
12 deceased. If the surviving spouse had abandoned, and at the time of

13 death was living apart from, the deceased, or if there is no spouse
14 surviving, then such custody and control shall belong to the next of
15 kin, unless the decedent, in a duly acknowledged writing, designated
16 another person to have custody and control of [his] the remains of the
17 decedent. The court of probate for the district of the domicile of the
18 deceased may at any time, upon the petition of any of the kin or such
19 person, award such custody and control to that person who seems to
20 the court most fit to have the same. If a deceased resident of the state
21 leaves no spouse, next of kin or designated person surviving, or if the
22 spouse, next of kin or designated person cannot be contacted after due
23 diligence to assume custody and control of the remains of such
24 decedent as provided in this section, or if the spouse, next of kin or
25 designated person refuses to assume such custody and control, the
26 court of probate for the district of the domicile or residence of the
27 deceased may, upon the petition of a selectman or chief officer of such
28 town, a licensed funeral director or the director of health of such town,
29 grant such custody and control to some suitable person. If a person has
30 executed a cremation authorization for the incineration or cremation of
31 such person's body upon death on a form authorized by the
32 Department of Public Health, as described in subsection (a) of this
33 section, then such instructions may be relied upon by any person
34 acting reasonably and in good faith in reliance upon such written
35 instructions and shall permit any licensed funeral director to obtain a
36 cremation certificate and a cremation permit, in accordance with the
37 provisions of section 19a-323. No person may challenge the funeral
38 director's decision to obtain a cremation certificate and a cremation
39 permit.

40 [(b)] (c) This section shall not apply to the disposition of a body of a
41 deceased person under the provisions of sections 19a-270 and 54-102;
42 nor shall it affect the powers and duties of the chief medical examiner
43 under the provisions of sections 19a-406 to 19a-408, inclusive.

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Public Health

Municipal Impact: None

Explanation**State Impact:**

It is anticipated that the Department of Public Health will be able to modify an existing form to allow for a cremation authorization as required by the bill within its anticipated budgetary resources.

OLR BILL ANALYSIS

sSB 1420

AN ACT CONCERNING DISPOSITION OF REMAINS OF DECEASED PERSONS.**SUMMARY:**

This bill permits people age 18 and older to complete a form authorized by the Public Health Department authorizing the cremation of their remains. They must sign and date the form and two witnesses must certify in writing that the person was of sound mind when he signed it. (Presumably, they must witness the signing.)

The bill permits licensed funeral directors to obtain a cremation certificate and permit from the department relying on such forms, and it specifies that no one can challenge these decisions. It also permits others to act reasonably and in good faith relying on such cremation authorizations.

The bill excludes dispositions of the bodies of executed criminals or people whose relatives or representatives do not claim them. And it specifies that it does not affect the powers and duties of the chief medical examiner to conduct autopsies, investigate and report the causes of death, and dispose of remains after their work is done.

There is currently no statutory procedure for advance cremation instructions.

EFFECTIVE DATE: October 1, 2001

BACKGROUND**LEGAL CUSTODY OF REMAINS**

By law, a dead person's remains belong to his surviving spouse or, if there is none, to his next of kin or someone else he has designated in

writing as being entitled to custody and control. Under the bill and current law, these people can disregard instructions that the deceased gave before his death about how his remains should be disposed of. When a disagreement arises, relatives or designated custodians can ask probate court judges to determine which person is most fit to have custody and dispose of the remains.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0 Abstain 1